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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,520	07/20/2000	Dorothy B. Franks	GEMS:0091	2920

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EXAMINER

SOTOMAYOR, JOHN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/620,520

Applicant(s)

FRANKS ET AL.

Examiner

John L. Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

1. In view of the Appeal Brief filed on November 21, 2003, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-13 and 15-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Babula et al (US 6,381,557).

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Regarding claim 1, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility comprising collecting identification and operation data associated with a plurality of biomedical equipment components (Col 4, lines 37-42 and lines 60-65, Col 5, lines 1-7), storing the collected data in a central database (Col 7, lines 1-10), analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components (Col 18, lines 30-35), and identifying a training need based on the analyzed operational parameter (Col 18, lines 45-50).

Regarding claims 2 & 3, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein an operational parameter includes operational errors and failures for a type of equipment component (Col 5, lines 3-7).

Regarding claim 4, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the data includes equipment type (Col 4, lines 48-65) and the training need is identified by analyzing the operational parameter for a plurality of equipment components of the equipment type (Col 18, lines 35-54).

Regarding claim 5-7, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the data is representative of individual operators utilizing the equipment components (claim 5), representative of the department to which the components are assigned (claim 6), or representative of the facility site at which the equipment components are located (claim 7) (claim 6, lines 8-51).

Regarding claim 8, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein a report of identified training needs may be generated by the system (Col 19, lines 10-16).

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Regarding claim 9, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein reports are generated at a site remote from the medical institution and transmitted to the medical facility by a configurable network link (Col 19, lines 20-45).

Regarding claim 10, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the network link includes the Internet (Col 6, lines 42-50).

Regarding claim 11-13 and 24-25, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein databases populated at a service monitoring location includes associating stored data into logical groups by equipment type (claims 11 & 24), associating stored data into logical groups by equipment location (claims 12 & 25) and associating stored data into groups by equipment manufacturer (claim 13) and identifying training needs based on the data for each type of group (Col 18, lines 30-54).

Regarding claim 15, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein a central database is configured to store data representative of equipment components, including operation data and identification data for equipment type (Col 7, lines 1-40), a data analysis module configured to arrange the operation data into logical grouping and to analyze the operation based on the logical groupings (Col 11, lines 4-25), a report generator is configured to generate a report including an arrangement of the analyzed operation data based on the logical groupings with a training need is identified based on the arrangement (Col 19, lines 5-45).

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Regarding claim 16, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein operation data includes breakdowns associated with a particular equipment type (Col 4, lines 33-47).

Regarding claims 17 and 27, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the operation data includes operator errors associated with a particular equipment type (Col 8, lines 35-55).

Regarding claim 18, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the operation data includes a first presentation of the operation data for a particular medical facility and a second presentation of the operation data for a plurality of medical facilities (Col 7, line 64 – Col 8, line 21).

Regarding claims 19 and 26, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the medical facilities are at geographically diverse locations (Col 4, lines 35-59).

Regarding claim 20, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein a user interface is configured to provide access to generated reports (Col 6, lines 1-7 and Col 19, lines 46-54).

Regarding claim 21, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein a report is generated at a location remote from the medical institution and is transmitted to the medical institution via a communication network (Col 19, lines 46-66).

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Regarding claim 22, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein the communication network includes the Internet (Col 6, lines 36-51).

Regarding claims 23 and 28, Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility comprising storing data associated with the equipment in a central database including equipment operation and identification data (Col 7, lines 1-10), logically grouping the stored equipment operation data in accordance with corresponding equipment identification data (Col 7, lines 8-10), analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components (Col 18, lines 30-35), generating a presentation of the analyzed equipment operation data in accordance with the logical grouping (Col 7, lines 12-35), and identifying a training need based on the analyzed operational parameter (Col 18, lines 45-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Babula et al in view of Linberg et al (US 6,497,655). Babula et al discloses a system and method for identifying training needs for biomedical equipment in a medical facility wherein stored data includes operational parameters on all biomedical equipment in a plurality of facilities. Babula et al does not specifically disclose that the suite of operational parameters includes a parameter indicating downtime. However, Linberg et al teaches that the maintenance of medical equipment must include data collection for remote tracking, diagnosis, maintenance, upgrade, tuning and adjustment of said medical equipment, thus requiring equipment type, location, manufacturer and downtime information in the form of a meantime between failure statistic (Col 9, lines 45-60). Linberg et al also teaches that informational parameters are mined from collected data to formulate operational statistics of use in determining operational parameters. Therefore, it would have been obvious to one of ordinary skill in the art to provide a system and method for identifying training needs for biomedical equipment in a medical facility wherein stored data includes operational parameters on all biomedical equipment in a plurality of facilities as disclosed by Babula et al with a calculated statistic based upon data tracking the meantime between failures and other parameters to provide a downtime parameter as taught by Linberg et al for the purposes of formulating a repair or replace decision for equipment tracked by the system.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carroll et al (US 4,952,928) for a discussion of adaptable electronic monitoring and identification systems for remote located equipment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jls
March 19, 2004


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